

AO 440 (Rev. 8/01) Summons in a Civil Action

UNITED STATES DISTRICT COURT

Southern

District of

New York

SAI KIM,

*Plaintiff,*

SUMMONS IN A CIVIL ACTION

V.

HILTON HOTELS CORPORATION, BELHAR,  
LLC d/b/a HILTON GARDEN INN COLUMBUS/ *POLARIS,*

*Defendants.*

CASE NUMBER: 07 CIV 4696 (PKC)

TO: (Name and address of Defendant)

HILTON HOTELS CORPORATION  
*9336 Civic Center Drive*  
*Beverly Hills, CA 90210*

BELHAR, LLC  
8535 Lyra Drive  
Columbus, OH 43240

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

KENNETH J. GLASSMAN  
475 PARK AVENUE SOUTH, SUITE 700  
NEW YORK, NY 10016  
(212) 213-2510

an answer to the complaint which is served on you with this summons, within 30 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

**J. MICHAEL McMAHON**

CLERK

8/14/2007

DATE

*[Signature]*  
(By) DEPUTY CLERK

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

=====X  
SAI KIM,

Plaintiff,

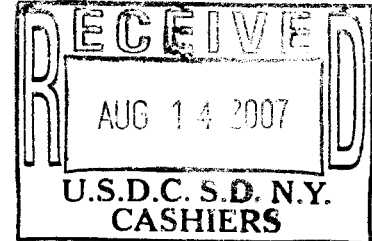
-against-

HILTON HOTELS CORPORATION and ,  
BELHAR, LLC, d/b/a HILTON GARDEN  
INN COLUMBUS/POLARIS,

Defendants.  
=====X

07 CIV 4696 (PKC)

AMENDED COMPLAINT



Plaintiff, **SAI KIM** ("Kim"), by her attorney, **KENNETH J. GLASSMAN**, brings this complaint (the "Complaint") against the Defendants, **HILTON HOTELS CORPORATION** ("Hilton") and **BELHAR, LLC** ("Belhar") d/b/a **HILTON GARDEN INN COLUMBUS/POLARIS** ("Hilton Garden Inn") and the owner and operator of the hotel, respectfully alleges as follows:

**NATURE OF THE ACTION**

1. This is an action for negligence and breach of quiet enjoyment against Hilton Hotels Corporation, Hilton Garden Inn Columbus/Polaris, and Belhar, LLC (collectively "Defendants"), predicated upon Kim ("Plaintiff") being the victim of a bed bug bites due to severe infestation at one of the Hilton hotels.

2. This action seeks redress for Defendants' negligent actions in violating its duty of providing accommodations that are reasonably safe for contemplated use, causing the Plaintiff embarrassing physical injury and tremendous emotional distress.

3. Plaintiff seeks (i) compensatory damages and (ii) punitive damages to ensure that no other guest suffers the same uncontrollable itchiness, humiliating appearance, and sleepless nights that Plaintiff suffered.

### **JURISDICTION AND VENUE**

4. The Court has jurisdiction over the subject matter of this action

5. Personal jurisdiction over the Defendants exist and venue is proper because Defendant Hilton, which owns Hilton Inns, Inc., the licensor to Defendant Hilton Garden Inn, transacts business in this county, and Plaintiff is a resident of this county.

### **THE PARTIES**

6. Plaintiff is an individual residing in the State of New York.

7. Upon information and belief, Defendant Hilton is a Delaware corporation with its principle place of business in California. Hilton is an active foreign business corporation, licensed to transact business in New York. At all relevant times, Defendant Hilton was and continues to be in the business of owning and operating hotels including transacting business in the state, county and city of New York.

8. Defendant Hilton Garden Inn Columbus/Polaris is located at:

8535 Lyra Drive  
Columbus, OH 43240

9. Defendant Hilton Garden Inn is owned and operated by Defendant Belhar LLC. Har S. Bhatnagar owns a 50% interest in Belhar. The other 50% interest in Belhar is owned by Bela Bhatnagar.

10. Har and Bela Bhatnager both reside at:

11117 Turnberry Place  
Fort Wayne, IN 46814

11. Defendant Belhar owns and operates Defendant Hilton Garden Inn Columbus/Polaris pursuant to a license agreement with Hilton Inns, Inc. This agreement was entered into on June 18, 2001.

12. Hilton Inns, Inc. is located at:

9336 Civic Center Drive  
Beverly Hills, CA, 90210

13. Hilton Inns, Inc. is a wholly owned subsidiary of Hilton Hotels Corporation. Hilton Inns, Inc. is incorporated in Delaware, with its principle place of business in California. It is an active foreign business corporation licensed to do business in New York.

#### **FACTUAL BACKGROUND**

14. On March 26, 2007, Plaintiff checked into room 336 of the Hilton Garden Inn located on I-71 & Polaris Parkway, in Columbus, OH. Plaintiff was on a business trip.

15. The next morning Plaintiff noticed some bites on her body, but she was unsure of their origin or nature.

16. Plaintiff stayed another night in the same room, and after the second night in Defendant's hotel, she discovered that the bites had gotten worse. To her horror, Plaintiff discovered her bed was infected with bed bugs.

17. As a result, Plaintiff was bitten by more than one-hundred-fifty (150) bites on her hands, feet, face, fingers, toes, legs, neck, back, chest, stomach and genital areas.

18. Plaintiff, concerned over the quantity and severity of these bites, had to visit an urgent care facility in Columbus, OH. When Plaintiff arrived back in New York on March 29, 2007, she sought treatment from a dermatologist and was prescribed both Clobex spray and Zyrtec for the bites.

19. Plaintiff had originally planned to stay another night at Hilton Garden Inn, but due to her bed being infested with bed bugs, she was forced to check out of Defendant's hotel and move to another one. This was an additional unforeseen expense.

20. Due to Defendant's negligence, Plaintiff incurred many other expenses. She had to buy a new piece of luggage, some new clothes and a pair of shoes since the ones she brought into Defendant's hotel room were no doubt exposed to the bed bugs as well.

21. While Defendant Hilton Garden Inn has reimbursed Plaintiff for her unsatisfactory two-night stay, Plaintiff has not yet been compensated for the expenses she incurred as a direct result of being bitten by bed bugs in Defendant's hotel.

22. Getting bitten by bed bugs affected Plaintiff's personal life. First, Plaintiff has been physically scarred by the approximately one-hundred fifty bites on her body. These scars are on very sensitive areas of her body, including her face, neck, stomach, chest and genital area.

23. Second, Plaintiff has been left emotionally damaged by the experience. Getting bitten by bed bugs was a very traumatic experience which has caused Plaintiff to have trouble sleeping and made her afraid that she will be bitten again.

**AS AND FOR A FIRST CAUSE OF ACTION**

**Negligence**

24. Plaintiff repeats and reiterates each and every allegation contained in Paragraph 1 through 23 as if fully set forth herein in its entirety.

25. Hotels owe their guests the duty of providing accommodations that are reasonably safe for the use contemplated. In addition to this duty innkeepers are required to exercise reasonable care to protect guests from dangers, whether known or reasonably anticipated, even if the danger arose through no fault attributable to the hotel keeper.

26. In this case, it is clear that Defendants have breached their duty to the Plaintiff. As a result of the defendants' negligence, infestation occurred in their hotel. There was no negligence on the part of the Plaintiff contributing thereto.

27. The infestation was caused wholly and solely by reason of the negligence, recklessness, carelessness, or misfeasant or malfeasant actions or inactions of the Defendants, in the ownership, maintenance, supervision, and control of their property.

28. As a result, Plaintiff suffered more than 150 bed bug bites over her face, hands, feet, fingers toes, chest, stomach, neck, back, legs and genital area.

29. Plaintiff suffered damages in the amount of \$1,000,000.00. Plaintiff seeks punitive damages in the amount of \$4,000,000.00.

**AS AND FOR A SECOND CAUSE OF ACTION**

**Breach of Warranty of Habitability and Quiet Enjoyment**

30. Plaintiff repeats and reiterates each and every allegation contained in Paragraph 1 through 29 as if fully set forth herein in its entirety.

31. Defendants, in addition to and because of their negligent actions, have breached the warranty Plaintiff is entitled to by virtue of her being a paying guest in the Defendant Hilton Garden Inn hotel. As a hotel patron, Plaintiff had the reasonable expectation to be able to get a good night's sleep free from any unwanted intrusions or additional guests in her bed. As stated above, this warranty was not only not fulfilled, but it was also egregiously breached by Hilton Garden Inn.

32. Therefore, due to this breach of warranty of habitability and quiet enjoyment by Defendants, Plaintiff has been injured and seeks compensation in the amount of \$5,000,000.00.

**AS AND FOR A THIRD CAUSE OF ACTION**

**Extreme Emotional Distress**

33. Plaintiff repeats and reiterates each and every allegation contained in Paragraph 1 through 32 as if fully set forth herein in its entirety.

34. As the result of Defendants' conduct above stated, Plaintiff has suffered extreme emotional distress.

35. Plaintiff seeks damages against Defendants in the amount of \$5,000,000.00.



**AS AND FOR A FOURTH CAUSE OF ACTION**

**Strict Liability**

36. Plaintiff repeats and reiterates each and every allegation contained in Paragraph 1 through 35 as if fully set forth herein in its entirety.

37. The Defendants, by virtue of their failure and refusal to repair, correct, or remediate the aforementioned infestation, caused and created hazardous conditions dangerous for health and safety of the Plaintiff, including, but not limited too, the existence of bed bugs and other vermin and insects.

38. It is beyond dispute that Plaintiff has suffered physical injuries. Her physical injuries are abundantly clear: itchy, unsightly, gruesome bed bug bites over Plaintiff's body, including her face, stomach, neck and pubic region. Plaintiff suffers from a loss of sleep, as well as mental and emotional anguish from her experience.

39. As the result of the foregoing, Defendants are strictly liable for Plaintiff's damages and the injuries sustained therein.


40. Plaintiff has been damaged in the amount of \$1,000,000.00.

41. Plaintiff seeks punitive damages in the amount of \$4,000,000.00.



**WHEREFORE**, Plaintiff prays for judgment in her favor and against the Defendants on each cause of action and granting Plaintiff such other and further relief as this Court seems just, proper and equitable under the circumstances.

Dated: New York, New York  
August 1, 2007



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**KENNETH J. GLASSMAN (4787)**  
**Attorney for Plaintiff**  
**475 Park Avenue South, Suite 700**  
**New York, New York 10016**  
**(212) 213-2510**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

=====X

SAI KIM,

Docket No. **07 CIV 4696 (PKC)**

Plaintiff,

-against-

HILTON HOTELS CORPORATION and  
BELHAR, LLC, d/b/a HILTON GARDEN  
INN COLUMBUS/POLARIS,

Defendants.

=====X

**AMENDED COMPLAINT**

**KENNETH J. GLASSMAN (4787)**  
***Attorney for Plaintiff***  
**475 Park Avenue South-Suite 700**  
**New York, NY 10016**  
***Tel: (212) 213-2510***